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**ATTORNEYS FOR DEFENDANT AVA NELSON**

**UNITED STATES DISTRICT COURT  
DISTRICT OF WYOMING**

WESLEY DALE VINCENT,	)	
	)	
Plaintiff,	)	
vs.	)	Case Number: 16-CV-270-J
	)	
AVA NELSON,	)	
	)	
Defendant.	)	

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**DEFENDANT NELSON'S PROPOSED CONTENTION INSTRUCTION**

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Defendant Ava Nelson by and through her attorneys, Hall & Evans, LLC, submits the following proposed contention instruction:

This lawsuit is a claim for co-employee liability arising from an industrial motor vehicle accident at Black Thunder Mine (BTM) near Wright, Wyoming. Plaintiff Wesley Vincent was a Thunder Basin Coal Company (TBCC) employee. Vincent was employed as an equipment operator at BTM. At the time of the accident, Vincent was driving a Komatsu 830E haul truck and descending the access ramp of the 4 East Pit of the mine. Fellow TBCC employee Ava Nelson, was ascending the same access ramp while also driving a Komatsu 830E haul truck. The access ramp was marked as narrow, as it the ramp was less than 120 feet wide. The access ramp in

to the 4 East Pit was measured to be between 75 and 80 feet wide at the time of the incident, and both haul trucks were 25-27 feet wide. While attempting to pass, Nelson and Vincent's haul truck stuck in a sideswipe type fashion.

Plaintiffs contend the way Nelson drove her haul truck on a narrow road constituted willful and wanton misconduct. Nelson denies that she acted in a willful and wanton manner. Nelson had safely passed other haul trucks at the same location during that shift and had no reason to believe that proceeding would cause an accident. BTM's and OSHA investigation determined that Ms. Nelson made an error in judgment when attempting to pass Mr. Vincent but did not act intentionally to cause harm or property damage.

Defendant Nelson also contests the damages that Plaintiff claim, including the injuries that were alleged to have been suffered as a result of this accident.

Respectfully submitted this 25<sup>th</sup> day of November, 2019.

*s/ James C. Worthen*

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**ATTORNEYS FOR DEFENDANT**  
**AVA NELSON**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 25<sup>th</sup> day of November, 2019 I electronically filed the foregoing **DEFENDANT NELSON'S PROPOSED CONTENTION INSTRUCTION** with the Clerk of Court using the CM/ECF system which will send notification of such filing to parties of record via electronic mail:

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*Wesley Dale Vincent:*

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*s/ Erica H. Malloy*

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